SUPREME COURT, U. S.

AUG 31 1970

E. ROBERT SEAVER, CLERK

No. 238

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

OLSON BODIES INC., formerly GRUMMAN ALLIED INDUSTRIES, INC.,

Petitioner,

—v.—

NATIONAL LABOR RELATIONS BOARD and INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL WORKERS OF AMERICA (UAW)

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION TO CONSOLIDATE

WILLIAM L. DENNIS
Attorney for Petitioner
Olson Bodies Inc.

Of Counsel:

CAHILL, GORDON, SONNETT, REINDEL & OHL
80 Pine Street
New York, New York 10005

August 31, 1970

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 238

OLSON BODIES INC., formerly GRUMMAN ALLIED INDUSTRIES, INC.,

Petitioner,

—v.—

NATIONAL LABOR RELATIONS BOARD and INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL WORKERS OF AMERICA (UAW)

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION TO CONSOLIDATE

Pursuant to Rule 43(5) of the Rules of this Court, petitioner Olson Bodies Inc. respectfully moves this Court for an order consolidating this case with *Magnesium Casting Company* v. *NLRB*, No. 370, 1970 Term, for argument.

The reasons for granting this motion are:

1. Point I of the Petition in this case and the Petition in No. 370 involve the same question of law, that is, whether the National Labor Relations Board is required to give plenary review to a Regional Director's determination of the unit appropriate for purposes of representation under the National Labor Relations Act before entering an unfair labor practice order based on that determination. The

Solicitor General, in his memorandum and in No. 370, has pointed out the similarity of issue in the two cases and has maintained that the conflict of opinion between the Second Circuit in *Pepsi-Cola Buffalo Bottling Co.* v. *NLRB*, 409 F.2d 676 (2d Cir.), *cert. denied*, 396 U.S. 906 (1969), as modified by its decision herein, and the First Circuit in No. 370 is of sufficient importance to merit a definitive ruling by this Court.

2. In addition to presenting the same issue of plenary Board Review as does No. 370, this case raises the crucial subordinate question whether, if plenary review is required, it is required in all instances of unfair labor practice charges or merely where there are issues which are labeled as "difficult and requir[ing] a fine-drawn balancing of facts and law".

If the Court grants certiorari in No. 370, it should also grant certiorari in this case and consolidate the cases for argument. By so doing, the Court will be able to efficiently settle all aspects of this very important question.

WHEREFORE, petitioner prays that the Court, upon granting certiorari in both cases, order the cases to be consolidated and be argued together, or on such terms as the Court may prescribe.

Respectfully submitted,

WILLIAM L. DENNIS
80 Pine Street
New York, N. Y. 10005
Attorney for Petitioner

Of Counsel:

CAHILL, GORDON, SONNETT, REINDEL & OHL
80 Pine Street
New York, New York 10005

August 31, 1970